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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,909	11/03/2003	Jason Harold Culler	200310794-1	5350

22879 7590 11/03/2006

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FORT COLLINS, CO 80527-2400

EXAMINER

RAHMAN, FAHMIDA

ART UNIT PAPER NUMBER

2116

DATE MAILED: 11/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	Application No. 10/699,909	Applicant(s) CULLER, JASON HAROLD	
	Examiner Fahmida Rahman	Art Unit 2116	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 19 October 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: 10 and 23.  
Claim(s) rejected: 1-9, 11-15, 18, 20-22 and 24-37.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

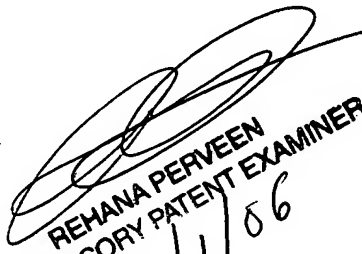
#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see NOTE.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

NOTE: Applicant's argument does not place the application in condition for allowance. Applicant argues that the filter of Sander 2 provides a ratio of frequency between  $F_x$  and  $F_s$ , which is not a value that represents a determined frequency (regarding claim 1, claim 15, claim 25, claim 30). Examiner disagrees on the basis that  $F_s$  is a reference or known frequency (line 50 of column 5) and therefore,  $F_x$  is expressed in terms of reference frequency. In such a case, ratio represents normalized frequency (as evidenced by the attached Wikipedia page). Therefore, Sander 2 teaches the detector determining frequency of the input signal.

Applicant further argues that nothing in Sander teaches or suggests that the frequency of either of the digital signals ( $F_x$  and  $F_s$ ) is adjusted based on the number stream and therefore, Sander does not teach means for controlling a frequency (regarding claim 29). Examiner disagrees on the point that 'alias' represents expected frequency range of the unknown signal and can be considered a desired frequency value as this value provides an expected range. 'Sum' is the representation of unknown frequency in terms of known frequency. 'Sum' is compared with 'alias' and a number stream is formed based on comparison. Fig 5 shows the steps of forming number stream from input signal. The input signal goes through many changes to form the number stream or 'out' signal. 'Out' signal is produced by controlling the frequency of input signal based on the comparison of the frequency of the input signal and the desired frequency.

Applicant further argues that there is no motivation to combine Lee with Sander, Sander 2 to adjust clock signal (regarding claim 12). Examiner disagrees on the basis that Lee's system provides improved locking and fine tuning. Lee's system teaches a comparator (12, 13) that provides comparator signal to 11 based on comparison between desired REF\_CK and input clock signal CK, and a controller 11 implements clock signal adjustment based on comparator signal. One ordinary skill would be motivated to incorporate the teaching of Lee into Sander, in view of Sander, to lock the clock with improved locking.

  
REHANA PERVEEN  
SUPERVISORY PATENT EXAMINER  
11/11/06